

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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WASHINGTON, DC 20515-6143

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<http://oversight.house.gov>

March 27, 2019

The Honorable Kirstjen M. Nielsen
Secretary
U.S. Department of Homeland Security
245 Murray Lane, S.W.
Washington, D.C. 20528

The Honorable Alex M. Azar II
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

The Honorable William P. Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Secretary Nielsen, Secretary Azar, and Attorney General Barr:

We are writing to request the testimony of the chief legislative affairs official from each of your agencies at a hearing on April 9, 2019, to determine why you have failed to comply with the duly authorized subpoenas issued by the Committee on February 26, 2019, requiring you to produce documents relating to the Trump Administration's actions in separating children from their families at the border.

The Committee's subpoenas were approved on a bipartisan basis, and the documents were due on March 12, 2019. In response, your agencies produced a spreadsheet that contains only:

- An anonymized identification number, date of birth, date of book-in to U.S. government custody, age at book-in, country of citizenship or birth, and gender of 2,667 children; and
- The date of birth, age, country of citizenship, and gender of the parent accompanying each child.

Your production was responsive to only two of the 11 categories covered by the subpoenas, and it does not include key information. For example, it does not provide any information on the separation of these families; the detention and transfer of separated children, their parents, and their siblings; asylum claims made by parents or other individuals accompanying the children; the deportation of parents or other accompanying individuals; or the reunification of children with their families, if this occurred.

After receiving your incomplete responses, Committee staff attempted to contact your staff at least 15 times to seek full compliance with the subpoenas. In response, your staff offered only vague generalizations suggesting that you were reviewing possible additional productions, but they declined to commit to producing the remaining documents or even providing a schedule to do so. For example:

- On March 18, Department of Justice staff stated during a call with Committee staff that they would not produce any information they received from the Department of Homeland Security or the Department of Health and Human Services without their “permission”—permission they claim they requested more than a month ago but have still not received.
- On March 19, Department of Justice staff wrote in an email to Committee staff, “we are unable to provide a date certain for any supplemental productions.”
- On March 21, Department of Homeland Security staff wrote in an email to Committee staff, “I do not have a timeline to share with you at this time.”
- On March 21, Department of Health and Human Services staff stated during a call with Committee staff that they could not provide any production schedule “with respect to the questions that are on the table.”

The Committee first requested this information more than eight months ago in a bipartisan letter from then-Ranking Member Cummings and Rep. Mark Meadows, then the Chairman of the Subcommittee on Government Operations.¹ Rep. Cummings sent a follow-up letter on December 19, 2018, as the incoming Chairman, requesting that your agencies “fully comply” with the Committee’s earlier bipartisan request.² We received no response to that letter.

¹ Letter from Chairman Mark Meadows, Subcommittee on Government Operations, Committee on Oversight and Government Reform, and Ranking Member Elijah E. Cummings, Committee on Oversight and Government Reform, to Secretary Kirstjen M. Nielsen, Department of Homeland Security, Secretary Alex M. Azar II, Department of Health and Human Services, and Attorney General Jeff Sessions, Department of Justice (July 5, 2018) (online at oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/Meadows-Cummings%20Letter%20Requesting%20Info%20on%20Separated%20Children.pdf).

² Letter from Ranking Member Elijah E. Cummings, Committee on Oversight and Government Reform, to Secretary Kirstjen M. Nielsen, Department of Homeland Security, Secretary Alex M. Azar II, Department of Health and Human Services, and Acting Attorney General Matthew G. Whitaker, Department of Justice (Dec. 19, 2018)

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On February 5, 2019, the Committee sent a letter to Christine Ciccone with the Department of Homeland Security, Matthew Bassett with the Department of Health and Human Services, and Stephen E. Boyd with the Department of Justice, inviting them to testify at a hearing as to why each agency had failed to comply with the Committee's requests.³ Chairman Cummings agreed to postpone that hearing when each agency indicated that it was working to comply with the Committee's requests.

Two weeks later, your agencies still had produced no responsive documents and provided no commitment to do so.

On February 22, 2019, the Committee announced that it would meet to debate and vote on issuing subpoenas to each of your agencies. On the eve of the subpoena vote, your agencies submitted thousands of pages of documents, but these documents were not responsive to the Committee's requests. For example:

- On February 19, the Department of Justice produced to the Committee public court documents containing none of the individual information on separated children that the Committee requested.
- On February 22, the Department of Health and Human Services produced to the Committee public court documents similarly containing no individual information on separated children, along with other non-responsive documents.
- On February 25, the Department of Homeland Security produced documents to the Committee late the night before the subpoena vote, but the production contained a mix of publicly available court filings, redacted or de-identified information, and aggregated data.

On February 26, the Committee voted on a bipartisan basis to authorize subpoenas.

In order to determine why you have failed to comply with the Committee's subpoenas, the Subcommittee on Civil Rights and Civil Liberties will hold a hearing at 2 p.m. on April 9, 2019, and we invite Ms. Ciccone, Mr. Bassett, and Mr. Boyd to testify.

(online at oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-12-19.EEC%20to%20Nielsen-DHS%20Whitaker-DOJ%20and%20Azar-HHS%20re%20Immigrant%20Child%20Separation.Updated.pdf).

³ Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Assistant Secretary Christine Ciccone, Department of Homeland Security, Assistant Attorney General Stephen E. Boyd, Department of Justice, and Assistant Secretary Matthew Bassett, Department of Health and Human Services (Feb. 5, 2019) (online at oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2019-02-05.EEC%20to%20DHS%20DOJ%20HHS%20on%20Child%20Separation.pdf).

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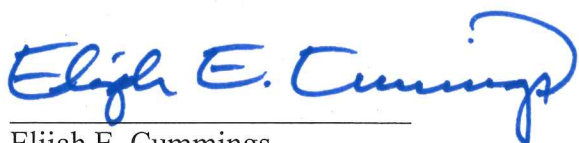
Please confirm by March 29, 2019, whether your legislative affairs officials will testify voluntarily at this hearing or whether the Committee will need to consider alternative means to ensure their compliance with this request.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

The enclosed Witness Instruction Sheet provides information for witnesses appearing before the Committee. Please note the procedures for submitting the written testimony at least two business days prior to the hearing.

If you have any questions, please contact Committee staff at (202) 225-5051.

Sincerely,



Elijah E. Cummings
Chairman



Jamie Raskin
Chairman
Subcommittee on Civil Rights and Civil
Liberties

Enclosure

cc: The Honorable Jim Jordan, Ranking Member

The Honorable Chip Roy, Ranking Member
Subcommittee on Civil Rights and Civil Liberties